REMARKS

Claims 6 and 11-17 have been cancelled without prejudice. Applicant reserves the right to pursue the subject matter of the cancelled claims in a related application. Claims 1-5, 18-27 have been amended. New claims 28-35 have been added. Support for the new claims can be found in the Specification as filed, on page 8, second full paragraph. The following addresses the substance of the Office Action.

Novelty

The Examiner has maintained the rejection of Claims 1, 6, 18 and 23 under 35 USC §102(b) as being anticipated by US Patent 6,245,898. The Examiner had indicated in the Office Action dated July 3, 2007 that this rejection could be overcome by changing "antigen" to "epitope'. Accordingly, Applicant made this amendment in the Amendment dated September 25, 2007. In the Advisory Action dated November 13, 2007, the Examiner refused to enter the change from "antigen" to "epitope" because the amended language allegedly represents new matter. Applicant respectfully disagrees. The language "...wherein the antibody binds to an epitope of CUB domain-containing protein 1(CDCP1) which is the same as that bound by an antibody which is produced by [one of the deposited hybridoma cell lines]..." is implicit in the teaching of the specification. "Epitope" is a well-known term of art that refers to the antigenic site on a protein against which an antibody reacts. See e.g., http://www.medterms.com/script/main/art.asp?articlekey=23372. Antibodies that bind to CDCP1 necessarily bind to an epitope of that protein. Thus, the phrase, "an epitope of CUB domain-containing protein 1(CDCP1) which is the same as that bound by an antibody which is produced by one of the deposited hybridoma cell lines", adds no new matter and finds implicit support in the specification as filed. Applicant respectfully requests entry of the amended language and withdrawal of the 102 rejection.

Allowable claims

Applicant wishes to thank the Examiner for indicating that Claims 2-5, 7-10, 19-22 and 24-27 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. These claims have been amended accordingly.

New Claims

New claims to specific disclosed fragments of the claimed antibodies have been introduced. Under *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 296 F3d 1316; 63 U.S.P.Q.2d 1609, Fed. Cir. 2002), the deposit of the biological materials, e.g., hybridoma cell lines that produce monoclonal antibodies, is acceptable to satisfy the written description requirements of 35 U.S.C. 112—i.e., to provide the antibody sequences. The particular fragments of interest which retain the antigen-binding function of the antibody, such as F_{ab}, $F_{(ab')2}$, F_v and CDR are explicitly disclosed in the specification as filed, on page 8, second full paragraph. Since the sequence information is considered disclosed and readily available via the deposited cell lines and since antibody structure is highly characterized (See e.g., http://www.fda.gov/Cber/gdlns/orphan.htm), including sequence locations of the CDR's on the light and heavy chains, a person with an ordinary skill in the art can obtain the sequences of the recited fragments of the deposited antibodies without undue experimentation. Therefore, new claims are fully supported by the specification as filed, and do not introduce new matter.

CONCLUSION

Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, amendments to the claims, the reasons therefor, and arguments in support of the patentability of the pending claim set are presented above.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: January 3, 2008

By: _____

Marina L. Gordey
Registration No. 52,950
Agent of Record
Customer No. 20995
(805) 547-5580

4700013_2
010208